

**FLATHEAD COUNTY BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
FEBRUARY 3, 2015**

**CALL TO  
ORDER  
6:02 pm**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1<sup>st</sup> Ave W, Kalispell, Montana. Board members present were Gina Klempel, Ole Netteberg, Mark Hash, Cal Dyck and Roger Noble. Erik Mack and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 6 people in the audience.

**APPROVAL OF  
MINUTES  
6:02 pm**

Noble motioned and Netteberg seconded to approve the January 6, 2015 minutes as provided in the meeting packet. The motion passed unanimously.

**ELECTION OF  
OFFICERS  
6:03 pm**

Netteberg motioned and Klempel seconded to nominate Hash for Chair.

Motioned passed unanimously.

Klempel motioned and Noble seconded to nominate Dyck for Vice-Chair.

Motioned passed unanimously.

**PUBLIC  
COMMENT  
6:04 pm**

None.

**NANCY REID BY  
GEORGE  
JOSEPH  
(FCU-14-15)  
6:04 pm**

A request by George Joseph on behalf of Nancy L. Reid, for a Conditional Use Permit to construct a multi-family dwelling in the Evergreen Zoning District, zoned RA-1 (Residential Apartment). The applicant is proposing an 8-unit apartment building on approximately 0.5 acres. The property is located at 32 West Evergreen Drive.

**STAFF REPORT**

Mack reviewed Staff Report FCU-14-05 for the Board.

**BOARD  
QUESTIONS**

None.

**APPLICANT  
PRESENTATION**

George Joseph, 18 Mountainside Dr, Whitefish, said Mack had covered all pertinent topics regarding the project.

**PUBLIC  
COMMENT**

Victor Nelson, 44 West Evergreen Dr., Kalispell had concerns with the location and size of lots. He was concerned about traffic and children walking in the area with the school in proximity as there was no sidewalk in the area.

**STAFF  
REBUTTAL**

Hash asked Mack if he had any comments after hearing the public comment from Nelson.

Mack said no.

**BOARD  
DISCUSSION**

Hash asked Mack about the concerns raised by Nelson.

Mack said the Road and Bridge Department did not have any concerns with the application and he deferred to their experience.

Klempel asked if the school had been contacted and if they were at capacity. She did not know how many children would be in the complex. Was there any input from the school concerning enrollment?

Joseph said there was no way of knowing how many children would be living in each unit and of those children how many would be attending the elementary school.

Mack stated an agency referral letter had been sent to the school and the office had not receive a response.

Noble asked the square footage of each apartment.

Joseph said they ranged from 815 square feet to 960 square feet. On average they would be 875 square feet.

Netteberg asked if the units would be two or three bedroom units.

Joseph said there would be both two and three bedroom units.

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FCU-14-15)**

Netteberg made a motion on findings of fact for FCU-14-15 that we accept them as written.

Klempel seconded the motion.

**BOARD  
DISCUSSION**

None.

**ROLL CALL TO  
ADOPT F.O.F.  
(FCU-14-15)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

None.

**MAIN MOTION  
TO APPROVE  
(FCU-14-15)**

Netteberg made a motion that they accept FCU-14-15 as findings of fact and grant the conditional use permit.

Klempel seconded the motion.

**BOARD  
DISCUSSION**

None.

**ROLL CALL TO  
APPROVE  
(FCU-14-15)**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS  
6:12 pm**

Continuation of board discussion of FZV-14-03: A request by Michael & Debbie Thomas for a Zoning Variance to property within the Bigfork Zoning District and zoned RC-1 (Residential Cluster). The applicant is requesting a variance to Section 3.14.040(4), "Bulk and Dimensional Requirements", (Maximum Height), of the Flathead County Zoning Regulations. The property is located at 156 Bjork Drive. PUBLIC COMMENT HAS BEEN CLOSED FOR THIS ITEM.

Hash summarized what had happened at the last meeting which led to the continuance at this meeting. He said the three members who had been present at the January 6, 2015 could vote on the application. If Dyck and Klempel could state for the record they had looked at the recording of the meeting and all the pertinent materials they could participate in the vote.

Klempel and Dyck stated they had reviewed all pertinent materials regarding FZV-14-03 and therefore were going to participate in board discussion and voting for the agenda item.

Hash said the request seemed to be a simple request which boiled down to a height difference of two feet. He confirmed the

applicant or representative were not present. He summarized board discussion and the inability to make a motion at the previous meeting. He said he understood Mack had made an adjustment regarding the square footage of the building for which the variance was being requested.

Mack had updated finding #1 to adjust the square footage using the architect's quoted numbers from the Bigfork Land Use Advisory Committee's (BLUAC) meeting. He also had adjusted finding #6, adding additional language to the beginning of the finding.

Dyck asked about the topography of the map regarding slope. He was concerned about the slope and the purpose of the requirement for the 35 foot height.

Mack said finding of fact #3 addressed the hardship which was certain criteria the applicant had no control over which included the topography.

Grieve and the board discussed the height restriction, why it was 35 feet, the slope/topography, whether or not the restriction was for emergency services only and the restrictions on the criteria for a variance.

Klempel spoke about the architect's ability to change plans and the difficulty of taking a variance and making it fit when there were other options with the house plan. When a person bought a lot, it was not the job of the board and planning office to tell them what their restrictions were and to really think about what they wanted and what they were laying out as a home. That was the obligation of the home owner.

The board discussed non-conforming lots and granting a variance.

The board and staff discussed the height restrictions.

The board and Mack discussed how many findings of fact of the application which did not comply.

**MAIN MOTION  
TO ADOPT  
F.O.F.  
(FZV-14-03)**

Noble made a motion to accept the findings of fact as provided in the staff report for FZV-14-03.

Hash said so there was a motion to accept findings 1-9.

Klempel seconded the motion.

**ROLL CALL  
VOTE  
(FZV-14-03)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO DENY  
(FZV-14-03)**

Noble made a motion to deny the zoning variance request for FZV-14-03.

Dyck seconded the motion.

**BOARD  
DISCUSSION**

None.

**ROLL CALL TO  
DENY  
(FZV-14-03)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Hash said the board and staff had spent a lot of time on the application.

Netteberg requested the planning office research the reasons for the 35 foot height restriction.

Grieve stated he had done some research while the board had been in discussion. He had not found yet where the 35 foot height restriction originated. In people's mind above 32 to 35 feet qualified for a high-rise.

The board and staff discussed at length the height restriction and its possible origin.

**NEW BUSINESS  
6:37 pm**

None.

**ADJOURNMENT** The meeting was adjourned at approximately 6:37 pm. on a  
**6:37 pm** motion by Dyck. The next meeting will be held at 6:00 p.m. on  
March 3, 2015.

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C. Mark Hash, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 4 / 7 / 15*